IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7395 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ABDULBHAI SIDIQBHAI

Versus

GUJARAT CO-OPERATIVE

Appearance:

MR DG CHAUHAN for Petitioner

MR KS NANAVATI for Respondent No. 1, 2

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 29/06/2000

ORAL JUDGEMENT

1. It is alleged that the petitioner was working on daily wage basis under the respondent M/s. Gujarat Co-operative Oil Seeds Growers' Federation, and he was engaged in the year 1979 and he continued as daily wager till October 1981. It is submitted that the workman was disengaged by the respondent on 1-10-1981 and therefore the petitioner workman raised a dispute regarding his termination. The dispute has been referred to the Labour Court at Rajkot which has been registered as Reference

(LCR) No. 422 of 1982. The Labour Court after taking oral and documentary evidence dismissed the reference by order dated 26-6-1989. Having felt aggrieved by the order of the Labour Court, Rajkot, petitioner has filed present writ petition for quashing the judgment & award of the Labour Court, and for a direction on the respondent to reinstate him in service.

2. Learned counsel for the petitioner Mr. D.G. Chauhan has submitted that the petitioner was working as helper with the respondent and he worked till 30-9-1981. It is also submitted that, since he has completed 240 days work he should not have been terminated from service without giving him the benefit as contemplated under the I.D. Act. Therefore learned counsel for the petitioner submitted that, the Labour Court has not considered that the petitioner was in continuous employment from 1979 to 1981, and therefore he is entitled to the benefits under the I.D. Act; and since this benefits have not been given by the respondent, he is entitled to be reinstated in service.

3. Learned counsel for the respondent Mr. Vimal Patel has submitted that the Labour Court has gone through the evidence adduced by the parties, and has also considered the documentary evidence produced by the parties in the case. It is submitted by learned counsel for the respondent that by appointment order (exhibit-24) petitioner worked for 9 days in 1981, by exhibit-25 appointment order petitioner worked for 8 days in 1981 and by exhibit-26 appointment order petitioner worked for 7 days again in 1981. Learned counsel therefore submitted that taking all these period the petitioner worked for less than 240 days and therefore, he is not entitled to any benefit as per provisions of I.D. Act. Learned counsel for the petitioner however submitted that according to exhibit-27 it is evident that the petitioner worked from 19-5-80 to 31-5-80 and respondent had paid him wages for that period.

4. I have heard the submissions of learned counsel for both the parties. I have also gone through the judgment & award passed by the Labour Court. The Labour Court has held that the respondent Federation opened new Lotus Mill from 1-4-1981 and therefore the plea of the petitioner that he worked in May 1980 cannot be taken as correct. I do not find any error in the findings of the Labour Court. Further, the Labour Court has considered Exhibit-24 to 26 and exhibit 27. Even after considering all these appointment orders and payment vouchers, it appears that the petitioner has hardly worked for less

than 40 days during year 1980 and 1981. The Labour Court has also held that since the petitioner has not completed 240 days in a calendar year, he is not entitled to get any benefits under the I.D. Act. Considering the arguments of both the parties, and after going through the judgment & award of the Labour Court, I am of the view that the Labour Court has given sufficient reasons for coming into its decision and I do not find any reason to interfere with the judgment & award passed by the Labour Court. Accordingly, I am of the view that there is no merit in the present petition, and this petition is accordingly dismissed. Rule discharged. I make no order as to costs.

Dt: 29-6-2000 (P.K. Sarkar, J)
/vgn.